

IN THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

WILLIAM H GILLIAM

Debtor

Case No. 19-01366

Chapter 13
Memorandum in Support of
MOTION FOR TURNOVER
CONCERNING APPLE, GOOGLE
AND YAHOO and PROPOSED
ORDER

At the commencement of this case debtor held data in electronic format which most instances stored in the so called “cloud” of various providers. Data, including something as simple as a user name, has value. Data is property. *Caesars World, Inc. v. Caesars-Palace. com*, 112 F. Supp. 2d 502 - Dist. Court, ED Virginia 2000. And is property of the estate 11 USC §541.

As every user of an Apple products debtor assigned a user identification which can be any email address usable on the internet, in the case of Apple as set out in the motion the identification is Nosveemos2@yahoo.com. Apple uses the

email to “secure” the account by sending tokens (that is a number or phrase that’s unique and ties that account to that email). Other means can be added, such as a telephone number that can receive SMS (not all can). The debtor has used the same user identification continuously for at least a decade. Users of Apple enter into an agreement of adhesion with Apple, the current version to be found at this link: <https://www.apple.com/au/legal/internet-services/icloud/en/terms.html> Debtor has continuously paid monthly charges as determined by the agreement and ones usage. If the user does not pay eventually the data will be lost for non payment. It’s now been over thirty days, and it becomes critical, the debtor needs to obtain access to the account to pay the charges and preserve the account and its contents.

After commencement of this case, on Feb 4, 2020 my hotel room in Honolulu where I stayed after a hearing before this court was burglarized and all my devices, Computer, Ipad, Iphone taken. Each of these devices backup to cloud accounts, both Apple’s iCloud and Google’s Drive. Each of the emergency back up code sets for each respective cloud account stored in the other providers cloud. I never anticipated losing all devices and their associated cloud accounts so that the back ups would be irretrievable, just when needed.. As the thief also took my payment cards, passport etc. it took me some time to establish my identity so I

might recover the iPhone and its telephone number. Should this ever happen to the reader, you'll discover that to recover accounts the routine is to use either email addresses or phone numbers for SMS messaging to send a token to re-authenticate the person trying to recover. Unable to recover the insured phone immediately without any satisfactory identification, the thief eventually discovered and changed all of the email accounts, cloud accounts etc passwords and telephone number. It became absolutely impossible to recover the accounts by the time I got the phone. (Asurion the insurance carrier was negligent in their handling of the claim, for example shipping an iPad to replace the phone, despite the fact that the correct MEI on the claim form.

In addition, I fear that the contacts list (principally with yahoo, but Apple and Google secondarily) may have been exploited by the thief to write to debtor's twenty-years-worth-of-contacts in a scheme to defraud, such as: "I'm stranded in Timbuktu and need a thousand dollars to get home wire to Western Union for me please good friend; and then armed with "my" passport altered with a new photo, see attached¹, he or she or their runner can identify themselves to my name as the debtor and retrieve the funds or some other such chicanery.

¹ This altered passport photo comes to the debtor from First Hawaiian Bank, where the person pictured endeavored to present a counter check and obtain a 4 figure sum, the suspicious teller took a photo of the same; but, then the felon realized he grabbed the passport and ran out of the bank. The felon also altered the birth date to conform to the younger person pictured and the signature.

Further I have voluminous material stored at both cloud accounts. They are essential not just for this case; but, for my records going forward and to have contact even with friends, whose email and telephone number I'm no longer practiced to recall as the device always knew. (I need the yahoo account because it has contacts AND is the User ID for the Apple iCloud account)

A search for similar court cases doesn't turn up many cases, although a non-legal specific search does produce news articles of businesses who initiated suit against, say: Google, action commenced, and a few days later a review of the docket shows the case is dismissed voluntarily.² I surmise that Google quickly resolved. There is however one interesting case from Surrogate Court in New York where a surviving spouse and Personal Representative under a Will, which did not address decedent's data issues, ownership etc.. Matter of Scandalios (2019 NY Slip Op 30113 - NY: Surrogate's Court, New York, 2019). The Court summarized the sad circumstances and ordered Apple to allow the personal representative and surviving spouse access to the Apple account. Apple did not appear or contest, just as in this instant matter, all three, Apple, Google, Yahoo! are silent. I should think

² https://www.theregister.co.uk/2019/07/05/musey_v_google_lawsuit/

as the owner of the accounts at issue here, that debtor in as a good if not better position than a personal representative.

Similarly with respect to Google I have used what is today Google Drive³ nearly from its inception and pay monthly for significant storage. The current version of the Terms of Service at this link:

<https://www.google.com/drive/terms-of-service>. As debtor must pay for this storage and I've not been able to pay accruing charges, see above, debtor at risk of losing permanently and irretrievably the information, data, contacts. Etc. The accounts have the user identification: PacificRimHI and WorldHICuranam.

Finally, with respect to yahoo, debtor has used the email address BillGilliam@yahoo.com and WorldHI@yahoo.com from near the inception of the service and domain. The data there are the archived emails and contacts. I'm concerned the contacts list may be misused and already may have been the case, I've no way to warn or contact those on the contact list. Everything backed up redundantly, the yahoo contacts to Apple iCloud. But with both inaccessible debtor's sole remedy the motion for turnover.

³ Ancillary to Google Drive is the YouTube service which uses the same User ID and video of evidentiary value stored and importantly time stamped for authentication.

Finally, I would note for the court not only have the respondents Google, Apple, Yahoo not objected; but, they will benefit by having their account charges paid. The only person who would be harmed, I respectfully submit, the thief and his cohorts.

/s/ William H. Gilliam

William H. Gilliam, debtor, pro se
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DECLARATION IN SUPPORT OF MOTION FOR TURNOVER

I declare that I'm the debtor herein and the facts set forth in the foregoing memorandum are true and correct, on penalty of perjury.

/s/ William. H. Gilliam

William H Gilliam

PASSPORT PASSEPORT PASAPORTE	UNITED STATES OF AMERICA
Type / Type / Tipo	Country Code / Código País / País
Surname / Nom / Apellidos	Passport No. / N° de Pasaporte / No. de Pasaporte
GILLIAM	USA 509878022
Given Names / Prénoms / Nombres	
WILLIAM HOWARD	
Nationality / Nationalité / Nacionalidad	
UNITED STATES OF AMERICA	
Date of birth / Date de naissance / Fecha de nacimiento	
15 Dec 1947	
Place of birth / Lieu de naissance / Lugar de nacimiento	Sex / Sexe / Sexo
IOWA, U.S.A.	M
Date of issue / Date d'émission / Fecha de expedición	Authority / Autorité / Autoridad
16 May 2013	United States
Date of expiration / Date d'expiration / Fecha de caducidad	Department of State
15 May 2023	
Endorsements / Mentions Spéciales / Anotaciones	USA
SEE PAGE 27	

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5098780227USA4912158M2305156325945056<409082

